

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3781 of 1999

with

SPECIAL CIVIL APPLICATION NOS.5775, 5778 & 5794 of 1999

and

SPECIAL CIVIL APPLICATION No 3782 of 1999

with

SPECIAL CIVIL APPLICATION NOS.5776, 5777, 5779 & 5786 of
1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

=====

1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

MODERN DENIM LTD.

Versus

UNION OF INDIA

Appearance:

Mr K.B.Trivedi for M/S TRIVEDI & GUPTA for Petitioners
MR MUKESH R SHAH for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE J.N.BHATT and

MR.JUSTICE H.K.RATHOD

Date of decision: 06/10/1999

ORAL JUDGEMENT(Per J.N.Bhatt, J.)

Rule, service of which is waived by learned counsel Mr M.R.Shah for the respondents in this group of nine petitions.

In this group of petitions, challenge is against the impugned order, as at annexure A in all the nine petitions. In one set of appeals, respondent No.2, the Commissioner of Central Excise & Customs (Appeals) has granted stay against the impugned order on the condition to pre-deposit 100 per cent of the demand made in the notice whereas in remaining set of identical appeals, stay was granted on directing pre-deposit of 50 per cent of the amount.

Only on the aforesaid ground, it would be expedient to direct the appellate authority, respondent No.2, to reconsider the stay applications afresh in accordance with law within a period of four weeks. Learned advocate Mr Trivedi for the petitioner submitted that since the matters are being remanded to the respondent No.2 the point involved with regard to counterveiling duty, in such cases, is settled by a decision of the Apex Court in Hyderabad Industries v. Union of India, 1999 (108) ELT 321 (SC) and therefore necessary observations may be made. It will be open for the petitioners to urge this point also before the appellate authority.

In the result, all these petitions shall stand allowed while quashing the impugned order as at Annexure A, with the aforesaid directions. Rule is made absolute to the aforesaid extent with no order as to costs.

.....

(vjn)